

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BYRON CHAPMAN,

NO. CIV. S-04-1339 LKK/DAD

Plaintiff,

v.

O R D E R

PIER 1 IMPORTS (U.S.), INC.,

Defendant.

On August 22, 2011, this court granted plaintiff leave to file an amended complaint by September 12, 2011, twenty-one days from the date of the order (Dkt. No. 171). On September 19, 2011, plaintiff filed an "*Ex Parte*" application for leave to file the amended complaint late.

The application does not conform to the Local Rules for this District, specifically E.D. Cal. R. ("Local R.") 6-144(b) and (c), in that it does not advise the court of prior extensions, if any; and does not indicate by counsel's affidavit if a stipulation was sought from the defendant, and if so, why it was not obtained.

1 Plaintiff also failed to file the application prior to the  
2 expiration of the time allowed to amend the complaint, in violation  
3 of Local R. 6-144(d).

4 Plaintiff's counsel explains that the death of his father-in-  
5 law disrupted his life to such an extent that he was unable to  
6 comply with the filing deadline. He asks that he be sanctioned  
7 personally for this, rather than have any sanction against his  
8 client.

9 The application was served electronically upon counsel for  
10 defendant, who has not opposed or otherwise responded to the  
11 application, nor disputed counsel's explanations. The court  
12 accepts counsel's representations, notwithstanding that the  
13 representations do not explain all of counsel's failures to comply  
14 with the Local Rules. Counsel is cautioned to comply with the  
15 Local Rules, at the risk of sanctions.


16 Accordingly,

17 1. The application for leave to file the Second Amended  
18 Complaint is **GRANTED**; and

19 2. The dates previously scheduled in the Status (Pretrial  
20 Scheduling) Conference Order of July 18, 2011 (Dkt.  
21 No. 166) are still in effect.

22 IT IS SO ORDERED.

23 DATED: October 13, 2011.

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25   
26 LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT